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★ JUL 29 2004 ★

HONORABLE MARSHA J. PECHMAN

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CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JUL 30 2004

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

CIVIL ACTION NO. 04-677-P

THUY NGUYEN,

Plaintiff-Intervenor,

CONSENT DECREE AND
[PROPOSED] ORDER OF
DISMISSAL

DUY TRAN,

Plaintiff-Intervenor,

BILL SHANKS,

Plaintiff-Intervenor

v.

QPM AEROSPACE INC.,

Defendant.

I. INTRODUCTION

1. This action originated with a discrimination charge filed by Thuy D. Nguyen ("Mr. Nguyen" or "Charging Party") with the U.S. Equal Employment Opportunity Commission ("EEOC" or "Plaintiff"). The Charging Party alleged, inter alia, that QPM Aerospace Inc. ("QPM" or "Defendant") retaliated against him for participating in protected EEO activity, including the filing of internal complaints of racial harassment, when Defendant terminated him on or about November

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04-CV-00677-ORD

1 13, 2002 from its Auburn, Washington facility in violation of § 704(a) of Title VII, 42 U.S.C. §
2 2000e-3(a).

3 2. The EEOC sent Defendant a Letter of Determination with a finding of reasonable
4 cause that it had violated Title VII dated October 8, 2003.

5 3. The EEOC filed this lawsuit on March 31, 2004 in the United States District Court
6 for the Western District of Washington at Seattle on behalf of the Charging Party, alleging that
7 Defendant had retaliated against Charging Party when he complained of racial harassment.

8 4. Defendant denied the allegations of discrimination in the EEOC's complaint and
9 asserted several affirmative defenses.

10 5. The parties want to conclude fully and finally all claims arising out of the EEOC's
11 complaint, and the charge of discrimination filed with EEOC by Thuy Nguyen. They enter into this
12 Consent Decree to further the objectives of equal employment as set forth in Title VII.

13
14 **II. NONADMISSION OF LIABILITY AND NONDETERMINATION**
15 **BY THE COURT**

16 6. This Consent Decree is not an adjudication or finding on the merits of this case and
17 shall not be construed as an admission by Defendant of a violation of Title VII.

18
19 **III. JURISDICTION AND VENUE**

20 7. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343
21 and 1345. This action is authorized and instituted pursuant to Sections 706(f)(1) and (3) of Title VII
22 of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-5(f)(1) and (3) ("Title VII"), and
23 Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a. The employment practice alleged to
24 be unlawful in the EEOC's complaint filed herein occurred within the jurisdiction of the United

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1 States District Court for the Western District of Washington.

2
3 **IV. SETTLEMENT SCOPE**

4 8. This Consent Decree is the final and complete resolution of all Title VII allegations of
5 unlawful employment practices contained in the complaint filed herein on behalf of Thuy Nguyen,
6 including all claims by the parties for attorney fees and costs. The scope of this Consent Decree will
7 be limited to Defendant's Washington State facilities. The Consent Decree resolves all issues and
8 claims arising out of this complaint and is binding and final as to all such issues and claims.

9
10 **V. MONETARY RELIEF**

11 9. In settlement of this lawsuit, QPM agrees to pay Thuy Nguyen, Duy Tran, Bill Shanks
12 and Steve Teller, their attorney, a total of \$230,000 as non-economic damages for emotional stress
13 and other relief within five (5) business days of the date this Consent Decree is entered by the Court.

14
15 **VI. AFFIRMATIVE AND OTHER RELIEF**

16 **A. General Provisions**

17 10. QPM, its officers, agents, and employees at its Washington State facilities and all
18 human resource professionals who provide advice and assistance to the foregoing individuals will
19 refrain from engaging in practices which unlawfully discriminate against employees on the basis of
20 race, and which constitute retaliation for an individual engaging in protected EEO activity. In
21 recognition of its obligations under Title VII, QPM will institute the policies and practices set forth
22 below.

23 **B. Anti-Discrimination Policies and Procedures**

24 11. QPM shall institute and carry out anti-discrimination policies, procedures and training

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as set forth herein for employees, supervisors and management personnel, to the extent not already established, and will provide equal employment opportunities for all employees. QPM will evaluate and, where appropriate, modify the practices of its managers and supervisors in order to prevent discrimination in employment. QPM will ensure that its managers and supervisors understand its Equal Employment Opportunity ("EEO") policies and how those policies define and identify what constitutes employment discrimination, and will make managers and supervisors personally accountable by linking their performance appraisals and compensation to the effective implementation of its EEO policies.

12. Within one-hundred-twenty (120) days of the date of the effective date of this Consent Decree, QPM will: (a) review its EEO policy and the method and/or administrative process in which internal complaints are investigated, and revise it as necessary, to ensure that it adequately prohibits racial harassment, addresses QPM's obligation to provide a harassment-free work environment for its employees, and reaffirms its commitment not to retaliate against any employee for engaging in protected EEO activity, e.g., filing an internal discrimination and/or harassment complaint and/or filing a charge with the EEOC; and (b) distribute its EEO policy to all present and future employees, both management and non-management. QPM will provide EEOC with a written copy of its EEO policy as part of its first semi-annual report as provided in paragraph 19 below.

C. Training

13. Within one-hundred-twenty (120) days of the execution of this Consent Decree, QPM will develop and present to all managers, supervisors and employees at all of its Washington State facilities and all human resource professionals who provide advice and assistance to the foregoing individuals no less than two (2) hours of face-to-face training by a qualified trainer on employment discrimination, including racial harassment and retaliation for engaging in protected EEO activity. The EEOC will have an opportunity to review the training materials prior to the training date.

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1 Annually thereafter for the life of this Consent Decree, QPM will require all managers, supervisors
2 and employees at its Washington State facilities and all human resource professionals who provide
3 assistance to the foregoing individuals to complete two (2) hours of face-to-face training by a
4 qualified trainer on employment discrimination.

5 14. QPM will notify the EEOC of the completion of the training set forth in Paragraph 13
6 and will specify the names and job titles of the employees who participated in and completed the
7 training as part of its semi-annual reporting to the EEOC.

8 D. Expungement of Records

9 15. QPM will not disclose any information or make reference to any charge of
10 discrimination or this lawsuit in responding to employment reference requests for information about
11 Thuy Nguyen.

12 16. QPM will expunge from the personnel file of Thuy Nguyen, and from any other
13 records where such information is kept by QPM, any reference to a charge of discrimination against
14 QPM and this lawsuit and remove any no-rehire restriction, and change his November 2002
15 termination to a voluntary resignation. If Mr. Nguyen wishes to do so, QPM will permit him to
16 review his personnel file within thirty (30) days after the entry of this Consent Decree to ensure that
17 all such references have been expunged. QPM will not add any information or references to the
18 personnel files of Mr. Nguyen regarding this charge of discrimination and this lawsuit after such
19 references have been expunged.

20 E. Policies Designed to Promote Supervisor Accountability

21 17. QPM will continue to advise all managers and supervisors of their duty to ensure
22 compliance with its EEO policies, and to report any incident or complaint of discrimination or
23 retaliation, of which they become aware. If a manager or supervisor violates QPM's EEO policies,
24 he/she may be subject to discipline up to and including termination and compensation may be

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1 affected. QPM will also remind all managers and supervisors that there will be no retaliation against
2 any employee for reporting or relaying any incident of discrimination or retaliation under QPM's
3 EEO policy, or for participating in or conducting an investigation of such an incident.

4 18. QPM agrees that it shall include "commitment to equal employment opportunity" as a
5 criterion for qualification for supervisory positions.

6 F. Reporting

7 19. QPM shall report in writing and in affidavit form to the EEOC beginning six (6)
8 months from the date of the entry of this decree, and thereafter every six months for the duration of
9 the decree the following information:

10 a. Certification of the completion of training and list of attendees.

11 b. Certification that its EEO policy has been sent to all current and newly hired
12 employees as described above.

13 c. A list of any changes, modifications, revocations or revisions to its EEO policies and
14 procedures which concern or affect the subject of discrimination and retaliation.

15 d. A summary of harassment complaints, if any, filed by employees working at QPM's
16 Washington State facilities which are reported to management and the resolution of each complaint;
17 and

18 e. A statement listing the other provisions of this Decree that Defendant is required to
19 perform and certifying that QPM has complied with the terms of the Decree. If QPM has not
20 complied with any term of the Decree, the statement will specify the areas of non-compliance, the
21 reason for the noncompliance, and the steps taken to bring the Defendant into compliance.

22 G. Posting

23 20. QPM will post a Notice, attached as Exhibit 1 to this Consent Decree. The Notice
24 shall be posted on a centrally located bulletin board at each of QPM's Washington State facilities for
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1 the duration of the Consent Decree.

2 VI. ENFORCEMENT

3 21. If the EEOC determines that QPM has not complied with the terms of this Decree, the
4 EEOC will provide written notification of the alleged breach to QPM. The EEOC will not petition
5 the Court for enforcement of the decree for at least sixty (60) days after providing written
6 notification of the alleged breach. The 30-day period following the written notice shall be used by
7 the parties for good faith efforts to resolve the dispute.

8 VIII. RETENTION OF JURISDICTION

9 22. The United States District Court for the Western District of Washington shall retain
10 jurisdiction over this matter for the duration of the decree.

11 IX. DURATION AND TERMINATION

12 23. This Decree shall be effect for three (3) years beginning August ____, 2004, and
13 ending August ____, 2007. If the EEOC petitions the Court for breach of the Decree, and the Court
14 finds QPM to be in violation of the terms of the Decree, the Court may extend the duration of the
15 Decree.

16 X. CONCLUSION

17 24. The parties are not bound by any provision of this decree until it is signed by
18 authorized representatives of each party and is entered by the Court.

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21 Dated this _____ day of _____, 2004.

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CONSENT DECREE - 7

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Regional Attorney

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ORDER APPROVING CONSENT DECREE

The Court having considered the foregoing stipulated agreement of the parties,
IT IS HEREBY ORDERED THAT the foregoing Consent Decree be, and the same hereby is,
approved as the final decree of this Court in full settlement of this action. This lawsuit is hereby
dismissed with prejudice and without costs or attorneys' fees to any party. The Court retains
jurisdiction of this matter for purposes of enforcing the Consent Decree approved herein.

DATED this 30 day of July, 2004.


THE HONORABLE MARSHA J. PECHMAN
UNITED STATES DISTRICT JUDGE

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U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Seattle District Office

QPM AEROSPACE, INC.
NOTICE TO ALL EMPLOYEES

Federal law prohibits an employer from discriminating against any individual based on the individual's race with respect to hiring, promotion, demotion, terms and conditions of employment, and/or termination. Federal law also prohibits retaliation against any individual by an employer because the individual complains of discrimination, cooperates with a QPM Aerospace, Inc. and/or a government agency's investigation of a charge of discrimination, participates as a witness or potential witness in any investigation or legal proceeding, or otherwise exercises his or her rights under the law.

Any employee who is found to have retaliated against any other employee because such employee participated in this lawsuit will be subject to substantial discipline, up to and including immediate discharge.

Should you have any complaints of discrimination, you should contact your supervisor, or any upper level management individual.

Employees have the right to bring complaints of discrimination, harassment and/or retaliation to the U.S. Equal Employment Opportunity Commission, Seattle District Office at 909 1st Avenue, Suite 400, Seattle, WA 98104-1061, 206/220-6883, 1-800-699-4000. Employees may also bring complaints of discrimination, harassment and/or retaliation to QPM Chief Financial Officer Traci Hampton.

This notice has been posted in mutual resolution of CV 04-677P (W. D. Wash.).

"EXHIBIT 1"